

State of Alaska FY2003 Governor's Operating Budget

Department of Law Environmental Law Component Budget Summary

Component: Environmental Law

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Component Mission

Mission statement is included at the department summary and BRU levels.

Component Services Provided

Environmental Law provides legal representation to state agencies for the investigation, defense and prosecution of claims regarding contaminated sites around the state as well as legal advice on environmental matters. The section also provides legal representation to state agencies for the defense and prosecution of claims regarding the EXXON VALDEZ oil spill, the reimbursement of oil spill-related costs and the expenditure of restoration funds. It provides legal services in connection with obtaining recovery of the state's contribution to the Trans-Alaska Pipeline Liability Fund. Environmental Law also provides paralegal services, data collection and processing to support the activities. The budgeted cost of the Environmental Law section is relatively modest in comparison to the revenues that may be returned to the state treasury through its efforts.

The section was established in 1989 in the aftermath of the EXXON VALDEZ oil spill to force superior court in action against Exxon, Alyeska, and the TAPS Owner Companies alleging a number of violations of state law and seeking a broad array of damages, including a claim for injuries to the state's natural resources. In March 1991, the state filed an action in federal court seeking restoration costs and natural resource damages under the Clean Water Act. That effort has culminated in a remarkable series of agreements that have brought over \$1 billion to the state for restoration of the oil spill impacted area and reimbursement of state and federal response, damage assessment, and litigation expenditures. While the case has settled as to the state's claims and liabilities, work remains concerning expenditure of the restoration funds. As of September 1, 2001, full reimbursement of all state oil spill-related expenses has been accomplished. Some closely related matters, such as recovering the state's contribution to the Trans-Alaska Pipeline Liability Fund, and oversight of the expenditure of those monies, are also undertaken through this component.

In 1993 the expertise of the EXXON VALDEZ litigation team was, in part, redirected to initiate and implement a special project to force the cleanup and to recover for costs and damages related to contaminated sites around the state that pose an imminent or substantial threat to public health or the environment.

In order to deal effectively with these environmental threats and to ensure that those responsible for environmental degradation pay for the costs to the state of their actions, DEC requires substantial assistance from the Department of Law. [See "DEC Cost Recovery Policy & Procedures" (August 1993)]. Department staff, utilizing information from DEC's contaminated sites database, gather information and documentation on the priority sites. Department attorneys then perform a legal analysis of the sites' potential for responsible party cleanup or state cost recovery action. To accomplish this, the department identifies "responsible parties" at these priority sites as well as those parties' financial ability to initiate remediation and the potential for success of legal action. In consultation with DEC, department attorneys pursue appropriate enforcement actions to ensure cleanup at these sites or recommend to DEC that the state initiate a state led cleanup. In either case, the department pursues appropriate reimbursement of any state cleanup expenditures. The department consults with DEC in decisions to release a potentially responsible party from liability when available evidence indicates that the party is not, in fact, liable.

The Environmental section defends environmental lawsuits against the state. The section is also involved in prosecuting cruise lines that foul Alaska's air and waters and advises DEC regarding implementation of the recently enacted Alaska cruise ship oversight program. Finally, the department uses funds from this component to provide advice to agencies, primarily DEC, about environmental compliance issues and other matters such as the accommodation of environmental laws to national and state security concerns.

Component Goals and Strategies

Maximize the state's efforts to secure cleanup of contaminated sites and to ensure, to the greatest extent possible, that the costs of such cleanup are borne by the responsible parties.

Provide advice to the Department of Environmental Conservation (DEC) for measures relating to protection of the environment.

Minimize the monetary exposure of the state to claims by the United States and third parties for damages relating to environmental problems.

Ensure that the available restoration funds from the EXXON VALDEZ settlement are expended in accordance with law and for the maximum benefit of the Alaska environment.

Work with state and federal agencies and the EXXON VALDEZ Oil Spill Trustee Council to provide for the appropriate restoration of the natural resources damaged by the EXXON VALDEZ oil spill.

Obtain complete recovery of those contributions made by the state to the Trans-Alaska Pipeline Liability Fund.

Work with state agencies in the prosecution of litigation related to cleanup and cost recovery from responsible parties for contaminated sites in the state.

Promote responsible protection for the environment of Alaska.

Provide for the defense of environmental claims against the state.

Work with state and federal agencies to ensure that environmental laws accommodate national and state security needs.

Key Component Issues for FY2002 – 2003

No key issues.

Major Component Accomplishments in 2001

In FY 2001, the department recovered almost \$2,000,000 for state costs and penalties related to contaminated sites, obtained cleanup agreements with polluters with an estimated value of over \$500,000, and recovered approximately \$3,886,000 for EXXON VALDEZ oil spill related matters. To accomplish this, the department expended only \$1,190,500. In separate activities under this component, the department defended several potentially significant lawsuits where the state was alleged to have violated environmental laws with claimed damages in the millions of dollars. The department successfully prosecuted claims against cruise lines which fouled Alaska's air and continues to be involved in the state's oversight of that industry. The department also participated in lawsuits, such as those involving the Prince William Sound contingency plan, where the interests of the state are under attack based upon alleged violations of environmental laws.

Statutory and Regulatory Authority

AS 44.23.020

Environmental Law

Component Financial Summary

All dollars in thousands

	FY2001 Actuals	FY2002 Authorized	FY2003 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	918.5	870.1	879.2
72000 Travel	18.9	43.9	43.9
73000 Contractual	225.8	287.6	287.6
74000 Supplies	15.3	33.8	33.8
75000 Equipment	12.0	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	1,190.5	1,235.4	1,244.5
Funding Sources:			
1004 General Fund Receipts	549.6	607.8	603.2
1007 Inter-Agency Receipts	186.0	156.8	160.2
1053 Investment Loss Trust Fund	3.7	0.0	0.0
1055 Inter-agency/Oil & Hazardous Waste	450.0	470.8	481.1
1108 Statutory Designated Program Receipts	1.2	0.0	0.0
Funding Totals	1,190.5	1,235.4	1,244.5

Estimated Revenue Collections

Description	Master Revenue Account	FY2001 Actuals	FY2002 Authorized	FY2002 Cash Estimate	FY2003 Governor	FY2004 Forecast
Unrestricted Revenues						
Unrestricted Fund	68515	0.7	0.0	0.0	0.0	0.0
Unrestricted Total		0.7	0.0	0.0	0.0	0.0
Restricted Revenues						
Interagency Receipts	51015	186.0	156.8	281.3	160.2	356.2
Statutory Designated Program Receipts	51063	1.2	0.0	0.0	0.0	0.0
Investment Loss Trust Fund	51393	3.7	0.0	0.0	0.0	0.0
Interagency Recs./Oil & Hazardous Waste	51395	450.0	470.8	470.8	481.1	481.1
Restricted Total		640.9	627.6	752.1	641.3	837.3
Total Estimated Revenues		641.6	627.6	752.1	641.3	837.3

Environmental Law**Proposed Changes in Levels of Service for FY2003**

No changes.

Summary of Component Budget Changes**From FY2002 Authorized to FY2003 Governor***All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2002 Authorized	607.8	0.0	627.6	1,235.4
Adjustments which will continue current level of service:				
-Adjust vacancy by fund source between line items and components ADN# 0320124	-31.0	0.0	0.0	-31.0
-Year 3 Labor Costs - Net Change from FY2002	10.1	0.0	10.5	20.6
-Adjust vacancy by fund source between line items and components	13.1	0.0	0.0	13.1
Proposed budget increases:				
-Legal Secretary Reclassification	3.2	0.0	3.2	6.4
FY2003 Governor	603.2	0.0	641.3	1,244.5

Environmental Law

Personal Services Information

Authorized Positions		Personal Services Costs		
	<u>FY2002</u>	<u>FY2003</u>		
	<u>Authorized</u>	<u>Governor</u>		
Full-time	11	11	Annual Salaries	697,976
Part-time	1	1	COLA	22,795
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	195,058
			Less 4.00% Vacancy Factor	(36,632)
			Lump Sum Premium Pay	0
Totals	12	12	Total Personal Services	879,197

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Assoc Attorney II	1	0	0	0	1
Attorney III	1	0	1	0	2
Attorney IV	4	0	0	0	4
Attorney V	1	0	0	0	1
Attorney VI	0	1	0	0	1
Law Office Assistant I	1	0	0	0	1
Law Office Assistant II	1	0	0	0	1
Paralegal II	1	0	0	0	1
Totals	10	1	1	0	12